

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:20-CV-595-FL

ANGELA NEIL,)
)
Plaintiff,)
)
v.)
)
WARREN COUNTY SCHOOLS;)
KATRINKA R. BREWER, Principal of)
Mariam Boyd Elementary School; RAY)
SPAIN, Superintendent at Warren County)
Schools; KEEDRA WHITAKER, Chief)
Human Resources Officer at Warren County)
Schools; CHELSEA JENNINGS, Chief)
Academic Officer at Warren County)
Schools; DONNA ROBERTSON, Payroll)
and Benefits Specialist at Warren County)
Schools; SHEKENA SMITH,)
Administrative Assistant at Mariam Boyd)
Elementary School; KENDRA DAVIS,)
Assistant Principal at Mariam Boyd)
Elementary School; ADRIENE STEWART,)
School Counselor at Mariam Boyd)
Elementary School; MYLICY POWELL,)
Head Custodian at Mariam Boyd Elementary)
School; BLAIR BRANTLEY, Kindergarten)
Teacher at Mariam Boyd Elementary)
School; ANNETTE CATES, Teacher)
Assistant at Mariam Boyd Elementary)
School; MIA TAYLOR-TERRY, School)
Nurse at Mariam Boyd Elementary School;)
MARTIAN TAYLOR; and STEPHANIE)
SEWARD,)
)
Defendants.)

ORDER

This matter is before the court upon plaintiff's motion for leave to file an amended complaint (DE 74), her motions related to discovery and manually filing exhibits (DE 76, 77, 78, 79), and defendants' motion to dismiss (DE 62). Defendants' motion has been briefed fully. Defendants did not respond to plaintiff's motion for leave to amend or her subsequently filed proposed amended complaint, as allowed by the court, and the time within which to do so has expired. The court also finds expedient address of plaintiff's other pending motions prior to expiration of defendants' deadline to respond. In this posture, the issues raised are ripe for ruling.

Hearing no objection, and finding good cause to so allow under Federal Rule of Civil Procedure 15(a)(2), the court grants plaintiff's motion for leave to amend. The clerk is directed to file plaintiff's proposed amended complaint (DE 75) as her operative, amended complaint.

As a general rule, "an amended pleading ordinarily supersedes the original and renders it of no legal effect." Young v. City of Mount Ranier, 238 F.3d 567, 573 (4th Cir. 2001) (quotation omitted); see also 6 Charles Alan Wright, Arthur R. Miller & Mary Kay Kane, Federal Practice & Procedure § 1476 (3d ed. 1998) ("A pleading that has been amended under Rule 15(a) supersedes the pleading it modifies and remains in effect throughout the action unless it subsequently is modified. . . . Once an amended pleading is interposed, the original pleading no longer performs any function in the case."). Where plaintiff has now amended her complaint, with leave of court, after defendants filed the instant motion to dismiss, said motion is denied as moot.

However, the court retains the March 8, 2021, stay of the parties' scheduling conference activities for a period of 14 days from entry of this order, which may be extended upon notice by defendants of their intent to refile their motion to dismiss. Relatedly, the court finds plaintiff's discovery motions (DE 77, 79) premature as they "seek discovery from a[] source before the parties

have conferred as required by Rule 26(f)," the requirements of which are currently stayed. See Fed. R. Civ. P. 26(d)(1). The motions are therefore denied without prejudice.

As to plaintiff's motions for leave to manually file exhibits (DE 76, 78), neither filing indicates that the underlying exhibits, (here, described as contained in a "thumb drive"), have been served on the opposing parties, through their counsel or otherwise, as required by Local Civil Rule 5.1(f). Accordingly, those motions are denied without prejudice, with allowance being made for their resubmission, if necessary, with certification that the underlying exhibit(s) has been served on the opposing parties.¹

Based on the foregoing, plaintiff's motion for leave to amend her complaint (DE 74) is GRANTED. The clerk is DIRECTED to file plaintiff's proposed complaint (DE 75) as described herein. Defendants' motion to dismiss (DE 62) is DENIED AS MOOT. Plaintiff's pending motions (DE 76, 77, 78, 79) are DENIED WITHOUT PREJUDICE.

SO ORDERED, this the 7th day of December, 2021.


LOUISE W. FLANAGAN
United States District Judge

¹ The clerk is DIRECTED to retain the "thumb drive" that accompanied plaintiff's second motion, (DE 78), and plaintiff may, in future motions, designate those previously sent exhibits contained therein as the exhibits she wishes to file manually.